



# Public Notice

<b>U.S. Army Corps</b>	Permit Application No:	13037(09)
<b>Of Engineers</b>	Date Issued:	11 March 2004
<b>Galveston District</b>	Comments Due:	12 April 2004

---

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**PURPOSE OF PUBLIC NOTICE:** To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**AUTHORITY:** This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

**APPLICANT:** Lyman Reed  
1517 20<sup>th</sup> Avenue North  
Texas City, Texas 77590-5224  
Telephone: 409-945-4481

**LOCATION:** The project is located between Moses Lake and Galveston Bay, on Skyline Drive, at the Tide Control Gate, in Texas City, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: La Marque, Texas. Approximate UTM Coordinates: Zone 15; Easting: 314000; Northing: 3257000.

**PROJECT DESCRIPTION:** The applicant proposes to amend Permit No. 13037 (08). The original permit, issued on June 20, 1979, authorized the construction of a marina and residential subdivision. Amendment (01) authorized the placement of material and the construction of bulkheads for erosion control. It also authorized the dredging of three additional channels and the narrowing of a previously authorized channel from 100 feet to 90 feet. This amendment also provided for the option of not bulkheading portions of the channels and extended the time for completing the authorized work. Amendment (03) extended the time to complete the authorized work and provided authorization to construct two additional canals. Amendment (04) extended the time to complete the authorized work, and also authorized the deletion of a designated area of the project site to avoid impacts to two existing cultural resource sites. Amendment (05) extended the

time to complete the authorized work. Amendment (06) authorized a reduction in the scope of the project and a modification to the marina. This amendment also extended the time to complete the authorized work.

Amendment (07) extended the time to complete the authorized work. Amendment (08) deleted Channel F and Borrow Pit Number 3, changed the configuration of the marina, added an option to relocate the 7-acre mitigation area to an adjacent property, added Borrow Pit Number 2 as an expansion area for the marina, and extended time to complete work until December 31, 2005. In a letter dated September 25, 2001, the applicant was authorized for the relocation of roads and culverts, and a minor change in the shape, but not size, of the previously authorized mitigation area.

In this proposed amendment, the applicant is requesting to:

1. Modify the marina entry by deleting the conventional pier/finger pier type marina on the southern side of Borrow Pit Number 1 and replace it with townhouse pods and individual boat piers.
2. Relocate the 7-acre mitigation area back to the location between the edges of the existing undisturbed wetlands and the toe of the 50-foot wide greenbelt along the southern edge of the development.
3. Shorten channels B, C, and D to allow the Highbourne Cay residential finger to be adjacent to and within Borrow Pit Number 2. This will add 21 private residences and boats slips, half of which will be located within Borrow Pit Number 2. The proposed pier and boat slip structures associated with these residences will be added to the Residential Pier Examples (pages 29a, 29b).
4. Increase the collecting channel's width to have a fairway exceeding 50 feet
5. To extend the permit time to complete the project. To date, no construction has been started.

Due to the large number of permit plans, 37 pages, we have only included the applicant's **revised plans**, 7 pages, in the mailed Public Notices. If you wish to see the previously permitted plans with the revised plans, please visit our web site: <http://www.swg.usace.army.mil/reg/pn.asp> or contact the Project Manager listed on page 5.

**NOTES:** This public notice is being issued based on information furnished by the applicant. This information has not been verified.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

**OTHER AGENCY AUTHORIZATIONS:** Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said Program.

**STATE WATER QUALITY CERTIFICATION:** This project would result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

**NATIONAL REGISTER OF HISTORIC PLACES:** The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

A historic properties investigation has been conducted within the permit area. No sites determined eligible for or listed on the National Register of Historic Places are within the permit area or affected area.

**THREATENED AND ENDANGERED SPECIES:** Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

**ESSENTIAL FISH HABITAT:** This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

**PUBLIC INTEREST REVIEW FACTORS:** This application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

**SOLICITATION OF COMMENTS:** The Corps of Engineers is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps of Engineers may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth-sufficient detail to furnish a clear understanding of the reasons for support or opposition.

**PUBLIC HEARING:** Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before **12 April 2004**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections**. Comments and requests for additional information should be submitted to:

Kristi N. McMillan  
Regulatory Branch, CESWG-PE-RE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3083 Phone  
409-766-3931 Fax

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS